

Sl. No.17
07.01.2025
Suman
Ct. 15

WPA 17738 of 2024
Samir Kumar Ghosh
Vs.
The State of West Bengal and Ors.

Mr. Swarup Banerjee
Mr. Arindom Chatterjee
Mr. Subham Biswas
..for the petitioner

Mr. Suman Basu
Ms. Debapriya Ghosh
..for respondent nos. 2 to 6.

Mr. Jahar Datta
Mr. Bipin Ghosh
..for the State

Let the affidavit of service filed by the petitioner be kept on record.

Despite service, Respondent Nos. 8, 9, and 10 are not represented.

The petitioner raises the grievance that Respondent No. 10, a developer, has undertaken a construction at Holding No. 270, Ward No. 7, under the Chandannagore Municipal Corporation. The petitioner contends that this construction has caused significant damage to his residential building situated at the same holding number. The damages extend to both the building itself and the common passage.

The learned advocate representing the Corporation acknowledges that, upon inspection, the Corporation found that the construction at Plot No. 270 had indeed

caused damage to the petitioner's residential building. In response to this, the Corporation issued a stop-work notice to Respondent No. 10. Subsequently, the parties were called for a meeting. During the meeting, the petitioner gave his "no objection" to the continuation of the construction, contingent upon the assurance that Respondent Nos. 9 and 10 would undertake the necessary repair works on the petitioner's residential building and ensure that no further damage would be caused. Based on this understanding, Respondent Nos. 9 and 10 were permitted to continue with the construction work.

However, the learned advocate for the petitioner alleges that despite the assurance provided by Respondent Nos. 9 and 10, no remedial measures have been taken, and no repairs have been carried out on the petitioner's residential building. The petitioner further expresses concern that if Respondent Nos. 9 and 10 are allowed to proceed with the construction, the building will suffer additional damage.

In light of the foregoing, this writ petition is disposed of with the following directions:

The Corporation shall appoint a competent engineer who will oversee the necessary repair works at the petitioner's residential building to be undertaken by the petitioner.

The engineer appointed by the Corporation shall provide a detailed estimate for the repair works, and the petitioner shall proceed with the repair works in accordance with the estimate. The estimate shall be prepared within two weeks from date.

Respondent Nos. 9 and 10 shall deposit the money as per the estimate made by the engineer of the Chandannagore Municipal Corporation.

The petitioner shall be entitled to receive the costs incurred for the repair works from the deposit made by Respondent Nos. 9 and 10 in accordance with this order.

It is further clarified that if the cost of the repair works exceeds the amount deposited, Respondent Nos. 9 and 10 shall deposit the required additional sum with the Corporation, which shall then reimburse the petitioner accordingly.

Should Respondent Nos. 9 and 10 fail to make the required deposit within 15 days from the date of estimate, the Corporation shall issue a stop-work notice against them.

Accordingly, **WPA 17738 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)